

No. 11(112)-80-3 Lab. /9089.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947, (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workmen and the management of M/s. Bector Castings (India), Sector 24, Faridabad :—

IN THE COURT OF SHRI I. P. CHAUDHRY, PRESIDING OFFICER, LABOUR COURT, HARYANA,
FARIDABAD

Reference No. 230 of 1980
between

**SHRI SHIV CHARAN, WORKMAN AND MANAGEMENT OF M/S. BECTOR CATINGS (INDIA),
SECTOR 24, FARIDABAD**

Present:—None for the workman.

Shri D.S. Rai, Partner of the management.

AWARD

This reference No. 230 of 1980 has been referred to this court by the Hon'ble Governor of Haryana,—*vide* his order No. ID/FD/21-80/20464, dated 30th April, 1980 under section 10(l) (c) of the Industrial Disputes Act, 1947 for adjudication of the dispute existing between Shri Shiv Charan Workman and the Management of M/s. Bector Castings (India), Sector 24, Faridabad. The term of the reference was:—

"Whether the termination of service of Shri Shiv Charan was justified and in order ? If not, to what relief is he entitled ?

After receiving this reference, notices were issued to both the parties for 19th June, 1980. On 19th June, 1980, the case was called at 12-50 p.m., but none was present on behalf of the workman and I had to proceed *ex parte* against the workman and the case was fixed for the *ex parte* evidence of the management for 24th June, 1980.

On 24th June, 1980, the *ex parte* evidence of the management was recorded. The management produced Shri D.S. Rai, Partner of the respondent Company its sole witness. He stated on oath that the concerned workman had tendered his resignation voluntarily which was duly accepted by the management which is Ex-M-1. He further stated that the workman had duly taken or received his full and final payment of his outstanding dues. He executed the receipt voucher of this amount which is Ex. M-2 which were placed on the file.

In view of the un-rebutted *ex parte* evidence produced by the management, I am left with no choice except to believe the version of the management. Over and above this my findings get support from the absenting of the workman in the proceedings in this court with this reference. I feel that the workman had settled his dispute with the respondent management and it is held that the reference is bad, as no claim is made out of the workman against the management, therefore, I give my award accordingly. No order as to costs. This may be read in answer of this reference.

Dated, the 15th July, 1980.

I. P. CHAUDHRY,
Presiding Officer,
Labour Court, Haryana, Faridabad.

Endst. No. 1138, dated 16th July, 1980.

Forwarded (four copies), to the Secretary, to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947 with the request that the receipt of the above-said award may please be acknowledge within week's time.

I. P. CHAUDHRY,
Presiding Officer,
Labour Court, Haryana, Faridabad.

No. 11(112)-80-3 Lab. /9090.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s. Bector Castings (India), Sector 24, Faridabad :—

IN THE COURT OF SHRI I. P. CHAUDHRY, PRESIDING OFFICER, LABOUR COURT, HARYANA,
FARIDABAD

Reference No. 228 of 1980
between

**SHRI ANVAT, WORKMAN AND THE MANAGEMENT OF M/S. BECTOR CASTINGS (INDIA),
SECTOR 24, FARIDABAD.**

Present:—None for the workman.

Shri D. S. Rai, Partner of the respondent-management.

AWARD

This reference No. 228 of 1980 has been referred to this court by the Hon'ble Governor of Haryana,—
vide his order No. ID/FD/21/80/20440, dated 30th April, 1980, under section 10(f)(c) of the Industrial Disputes Act, 1947 for adjudication of the dispute existing between Shri Anvat, workman and the management of M/s. Bector Castings (India), Sector 24, Faridabad. The term of the reference was—

Whether the termination of services of Shri Anvat, was justified and in order ? If not, to what relief is he entitled ?

After receiving this reference, notices were issued to both the parties for 19th June, 1980. On 19th June, 1980, the case was called at 12.50 p.m., but none was present of behalf of the workman and I had to proceed *ex parte* against the workman and the case was fixed for the *ex parte* evidence of the management for 24th June, 1980.

On 24th June, 1980, the *ex parte* evidence of the management was recorded. The management produced Shri D.S. Rai partner of the respondent company its sole witness. He stated on oath that the concerned workman had tendered his resignation voluntarily which was duly accepted by the management which is Ex. M-1. He further stated that the workman had taken or received his full and final payment of his outstanding dues. He executed the receipt voucher of this amount which is Ex. M-2 which were placed on the file.

In view of the un-rebutted *ex parte* evidence by the management, I am left with no choice except to believe the version of the management. Over and above this my finding gets support from the absenting of the workman in the proceedings in this court of this reference. I felt that the workman had settled his duties with the respondent-management and it is held that the reference is bad, as no claim is made out of the workman against the management. Therefore, I give my award accordingly. No order as to costs. This may be read in answer of this reference.

I. P. CHAUDHRY,

Dated the 15th July, 1980.

Presiding Officer,

Labour Court, Haryana, Faridabad.

Endst. No. 1136, dated 16th July, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments Chandigarh as required under section 15 of the Industrial Disputes Act, 1947, with the request that the receipt of the above said award may please be acknowledged within week's time.

I. P. CHAUDHRY,

Presiding Officer,

Labour Court, Haryana, Faridabad.

No. 11(112)-80-3Lab/9092.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workmen and the management of M/s Indian Smith India, Plot No. 310, Sector 24, Faridabad :—

IN THE COURT OF SHRI I. P. CHAUDHRY, PRESIDING OFFICER, LABOUR COURT,
HARYANA, FARIDABAD

Reference No. 210 of 1980

between

SHRI JANG BAHADUR, WORKMAN AND THE MANAGEMENT OF M/S INDIAN SMITH INDIA,
PLOT NO. 310, SFCTOR 24, FARIDABAD

Present :—

None for the workmen.

Shri R. C. Sharma and Shri Satish Ahuja for the respondent.

AWARD

This reference No. 210 of 1980 has been referred to this Court by the Hon'ble Governor of Haryana,—
vide his order No. ID/FD/FD/10/202-79/16695, dated 9th April, 1980 under section 10(1)c) of the Industrial Disputes Act, 1947 for adjudication of the dispute existing between Shri Jang Bahadur, workman and the management of M/s Indian Smith India, Plot No. 310, Sector 24, Faridabad. The term of the reference was :—

"Whether the termination of service of Shri Jang Bahadur was justified and in order ? If not, to what relief is he entitled ?

After receiving the order of reference, notices were issued to both the parties for 4th June, 1980. On that day Shri R. C. Sharma appeared on behalf of the management, but none was present on behalf of the workman. Service of summons had been effected on the workman. The case was called thrice. First call was given at 8-30, Second call was given at 9-30 and third call was given at 10-00 and I proceeded *ex parte* against the workman and the case was fixed for *ex parte* evidence of the management for 20th June, 1980.

On 20th June, 1980, the evidence of the management was recorded. Shri Gian Chand, Manager of the respondent company appeared as MW-1 who stated that the workman concerned was appointed in their Factory from 16th July, 1976 as a machinist. The workman submitted his resignation on 5th January, 1980, which was written in the hand of the workman. The resignation of the workman is Exhibit M-1. The witness further stated that the workman had received his earned wages, and wages for earned leave. Now nothing remained due to the workman. The witness further stated that when the workman submitted his resignation the question of re-employment/reinstatement did not arise.

In view of the un-rebutted *ex parte* evidence produced by the management on oath, I am left with no choice except to believe the version of the management. I feel that the workman has taken his dues from the management and he resigned of his own accord. Now no dispute is left to be adjudicated. No order as to costs.

I give my award accordingly. This be read in answer of this reference. No order as to costs.

Dated, the 18th July, 1980.

I. P. CHAUDHRY,

Presiding Officer,
Labour Court, Haryana, Faridabad.

Endorsement No. 1189, dated 18th July, 1980

Forwarded (four copies) to the Secretary to Government, Haryna, Labour & Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, with the request that receipt of the above -said award may please be acknowledged within week's time.

I. P. CHAUDHRY,

Presiding Officer,
Labour Court, Haryana, Faridabad.

The 23rd July, 1980

No. 12(265)-80-3Lab.—In pursuance of the provision of section 10-A (3) of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Deputy Labour Commissioner (Sole Arbitrator), Faridabad in respect of the dispute between the workmen and the management of M/s Elson Cotton Mills Limited, Ballabgarh :—

BEFORE SHRI DHARMENDRA NATH, DEPUTY LABOUR COMMISSIONER, FARIDABAD
(SOLE ARBITRATOR)

In the matter of Industrial disputes

between

THE MANAGEMENT OF M/S. ELSION COTTON MILLS LIMITED, BALLABGARH AND THEIR
WORKMEN S/SHRI CHHINDA SINGH AND UMED SINGH

Appearance:—

Shri R. N. Rai for the management.

Shri Sagar Ram Gupta for the workmen.

AWARD

An industrial dispute having been come into existence between the management of M/S. Elson Cotton Mills Limited, Ballabgarh and their workmen S/Sh. Chhida Singh and Umed Singh, the parties agreed to refer the same to my arbitration and Government then published the arbitration agreement, -*vide* their notification No. ID/FD/70-79/41813-20, dated 22nd September, 1979. The specific matter in the dispute mentioned in the said agreement runs as under:—

Whether the termination of services of S/Shri Chhida Singh and Umed Singh was justified and in order? If not, to what relief they are entitled?

I held several proceedings for disposal of the reference but in the meanwhile the parties compromised the dispute out of the Court and have also entered into a settlement dated 3rd May, 1980, wherein it was agreed that the dismissal of Shri Chhida Singh would be converted into voluntary retrenchment from service with effect from May 4, 1979 and for that matter he will be paid a lump-sum amount of Rs 3500 in full satisfaction of all his claims. The parties have further agreed that Shri Umed Singh will be taken back on duty with immediate effect. He shall, however, not be entitled to any wages for the period of un-employment. All the same, as a gesture of goodwill the management agree to pay him a lumpsum amount of Rs. 500 *ex gratia*.

In my opinion the agreement is fair and reasonable except that the agreement is silent whether Shri Umed Singh has been taken back on duty with or without continuity of service. In my view, having applied my mind to the material placed on record, Shri Umed Singh is entitled to continuity of service but no wages for the period of un-employment. I am thus inclined to modify the agreement to this extent. Accordingly I award that there is no dispute pending between the parties in view of the settlement, dated 3rd May, 1980 but Shri Umed Singh is entitled to continuity of service for the period of his un-employment. The award is made accordingly. There is no order as to cost.

Dated the 20th June, 1980.

DHARMENDRA NATH,

Deputy Labour Commissioner,
Faridabad.
Sole Arbitrator.

The 28th July, 1980

No 11(112)-80-3Lab/9211.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workmen and the management of M/s Apeejay Pvt. Ltd., 23/5, Mile Stone, Mathura Road, Ballabgarh.

IN THE COURT OF SHRI I. P. CHAUDHRY, PRESIDING OFFICER, LABOUR COURT
HARYANA, FARIDABAD

Reference No. 59 and 60 of 1979

Between

SHRI PARDESI AND SHRI DHARAM BIR, WORKMEN AND THE MANAGEMENT OF M/S
APEEJAY PRIVATE LIMITED, 23/5, MILE STONE, MATHURA ROAD, BALLABGARH

Present :—

Shri Bhim Singh for the workmen

Shri R. C. Sharma for the respondent-management.

AWARD

These references No. 59 and 60 of 1979 have been referred to this Court by the Hon'ble Governor of Haryana, — *vide* his order No. FD /97-79/51776, dated 7th December, 1979 and ID /96-79/51782, dated 7th December, 1979 under section 10(1) (c) of the Industrial Disputes Act, 1947 for adjudication of the disputes existing between Sarvshri Pardesi and Dharam Bir, workmen and the management of M/s Apeejay Private Limited, 23/5, Mile Stone, Mathura Road, Ballabgarh. The term of the reference was :—

Whether the termination of services of Sarvshri Pardesi and Dharam Bir was justified and in order ?
If not, to what relief are they entitled ?

After receiving the order of references, notices were issued to both the parties for 26th December, 1979. Both the parties appeared and filed their pleadings. On the pleadings of the parties following issues were framed :—

1. Whether the workmen were serving the factory since May, 1977 and whether they were on probation at the time of termination ?
2. Whether the termination of the services of the workmen is justified and in order ? If not, to what relief they are entitled ?

Under the order of my predecessor of 13th February, 1980, Reference Nos. 59/79 and 60/79 were consolidated and the evidence of reference No. 59/79 was also ordered to be recorded in reference No. 60/79. On 13th February, 1980 the evidence of the management was recorded who produced four witnesses and the case was adjourned for 20th February, 1980 for remaining evidence of the parties. On 20th February, 1980 remaining evidence of the management was recorded, i.e., one more witness of the management was recorded and then the management closed its case. On the same day two witnesses were produced by the workmen claimant whose statements were recorded and the case was closed by the workmen also. Now the case was fixed for 3rd May, 1980 for hearing of the arguments.

Dated 3rd May, 1980 had erroneously been given to the parties and it was a holiday being Saturday. The parties were summoned for 14th May, 1980 through notices which were issued on 18th May, 1980 when the mistake came to the notice. On 14th May, 1980 both the parties prayed for adjournment and the case came up for hearing of arguments on 4th June, 1980 on which date the arguments of the parties were heard.

My findings issue-wise are as follows:—

Issue No. 1.—The management produced MW-1 Shri Devakar Dutt Shukla, MW-2 Shri Shankar Lal, Manager respondent, MW-3 Shri Sultan Singh and MW-4 Shri Nand Lal and MW 5 Banwari Lal, turner as their witnesses. On the other hand the workman Pardesi, workman of Reference No. 59/79 and Shri Dharam Bir, workman of Reference No. 60/79 appear as their own witnesses. Before I proceed to discuss this issue I want that I should also mention here the details of the documents exhibited in these cases. The details of the documents of Shri Pardesi are as under :—

MW-1/A is Charge-sheet given to the workman, MW-1/B is the U.P.C. receipt under which the U.P.C. letter was sent to both the workmen Shri Dharam Bir and Shri Pardesi, MW-1/C is a report about the workmen remaining away from the factory sent to the Labour-cum-Conciliation Officer, Faridabad by the respondent. MW-1/D, is about the joining of all the workers on duty on 19th September, 1979. MW-1/E is suspension letter, dated 19th September, 1979 of the workman. Through this letter they were directed to be present on the factory gate at 11.00 am. MW-1/F is a letter of the Conciliation Officer, Faridabad to the respondent for appearing for conciliation proceedings on 9th October, 1979. MW-1/G is a letter written to the Conciliation Officer, Faridabad by the respondent in connection with the demand notice of the workman, MW-1/H is a copy of UPC sent to the representative of the workmen, MW-1/J is a copy of the report stated to have been sent to the police by other workmen, MW-2/A is an application and appointment letter of the workman Pardesi.

Similarly the workman Shri Pardesi also produced some documents in his evidence which are as under:—

MW-2/A is a copy of demand notice given by the workman Shri Pardesi.

The details of documents of Shri Dharam Bir is as under :—

Exhibit MW-1/A is the Charge-sheet served on Dharam Bir and Pardesi, MW-1/B-1 is UPC receipt sent to Ram Bachan, Mani Ram, Mani Ram and Dharam Bir. MW-1/C-1 is a letter from the respondent to the Conciliation Officer, Faridabad informing about the strike. MW-1/D-1 again a letter from the respondent to the Conciliation Officer, Faridabad of 19th September, 1979 for resuming the duty by the workman. MW-1/E-1 is the suspension order of the workman Shri Pardesi and Shri Dharam Bir, MW-1/F-1 is a notice of the Conciliation Officer to the respondent for attending his office on 9th October, 1979 at 9.00 A.M. in connection with demand notice, dated 24th September, 1979 of Shri Dharam Bir. Exhibit M.W.-1/G-1 is a letter, dated 4th October, 1979 from the respondent to Shri Bhim Singh, representative of the workman. MW-1/K-1 is a UPC receipt for some letter sent to Shri Bhim Singh Yada, representative of the workman, MW-1/J-1 is a report of the Police by the workman of the respondent Shri Barma Nand, Exhibit M-1/K is a copy of the settlement bearing the signature of the workman.

Similarly Shri Dharam Bir, workman also produced some documents in his evidence which are as under :—

MW-2/A is the copy of the demand notice given by the workman Shri Dharam Bir, MW-1/A is a copy of demand notice given by the respondent of the workman to the respondent, MW-1/B is a copy of report under section 12(4) of the Industrial Disputes Act sent to the Labour Commissioner, by the Conciliation Officer, Faridabad. These are the total documents which have been filed by both the sides in these cases.

Issue No. 1 is about joining of the services of the respondent by the workman, i.e., Sarvshri Dharam Bir and Pardesi in May, 1977 and also about their being on probation at the time of their termination. The management witness Shri Devakar Dutt Shukla, Sales Executive of the respondent Company. He says that this company came into existence only on 1st July, 1979. Similarly, this contention has been corroborated by Shri Shakar Lal, MW-2 manager of the respondent Company. If we go through the whole of the evidence produced by the management from its side it becomes amply clear that this company was being owned by the respondent who were also the proprietor of M/s. Orient Spun Pipe, Faridabad which was in existence for more than 6 and 7 years earlier than the present respondent came into existence. Actually the present respondent transferred the workman from Orient Spun Pipe to this Company on 1st April, 1979, keeping their old service of the respondents continued giving them higher pay and keeping their service benefits intact of the old factory to the new company. This fact has been admitted by MW-3 and MW 4 and MW -5 Sarvshri Sultan Singh, Nand Lal and Banwari Lal all the witness of the respondent. They have with one voice said that the present workmen S/Shri Dharam Bir and Pardesi were working in M/S. Orient Spun Pipe of this very management and they were transferred to the present company along with them on 1st April, 1979 keeping the above said benefits of services and pay etc., in the present company. The statement of both the workmen alleging that they are working with the respondent from 1977 is quite clear and true. Their statement are corroborated even by the witnesses produced by the management respondents. So without any shadow of doubt I am of the firm opinion that these workmen were employed by the respondent in May, 1977 as they have mentioned in the demand notice and claim statements. It does not make any difference whether the name of the company was M/S. Orient spun Pipe and not the present name to the respondent, because their continuity of service, their pay, etc. were kept intact and other benefits were also continuing. The workman could not know if they had been treated as newly appointed employees of the respondent company because the proprie to of the company were the same.

Since these two workman claiment were employed in May, 1977. Therefore on the date of their termination, i.e., 14th September, 1979 they could not at all be on probation under the respondent. It is confirmed from my above discussion that these workmen were not on probation but they had already completed their period of probation. They were regular and confirmed employee of the respondent. The management has relied upon Ex. MW 2/A and MW 2/A-1 which are applications and appointment letters of these workmen S/Shri Dharam Bir and Pardesi. According to the management the signatures of the workmen were obtained and these show that these workmen joined on 1st April, 1979. These workmen in their statements had denied this contention of the respondent management. Shri Pardesi says in his statement that he is only an illiterate person and his signatures were obtained on this form saying that this forms was meant for his provident Fund purposes. Shri Dharam Bir on the other hand states that he had not been given any appointment letter. This contention of this workman is also supported and corroborated even by Shri Shankar Lal Manager of the company. He says that only one form was filed and no copy of the appointment letter was prepared. This means that these workmen had not been supplied with any appointment letter and their signatures were obtained by the management on one form each which always remained in the possession of the respondent. This management has earlier been working under the name and style of M/s. Orient Spun Pipe, Faridabad. They transferred its workers to the present respondent company keeping their benefits and services intact. With all the above discussions here is no doubt that these workmen were not the employees of the respondent management in May, 1977. They may have changed the name or transferred their workmen to some other company or any unit, that does not make any difference on the services of the workmen. So I hold that these workmen were employees of the respondent in May, 1977 and this issue is decided in favour of the workmen and against the respondent.

Issue No. 2.—This issue is about the termination of the services of these workmen. The management has time and again tried to take shelter under the plea that these workmen indulged in indiscipline by inciting the workmen for strike and beat the loyal workmen of the respondent. The rest of the exhibits, produced by the respondent are report of strike calling off strike, police report etc. These documents on the face of it seem to be an after thought to fill up the lacune of the respondent to regularise the illegal termination of service of these workmen. For example the police report does not at all bear any receipt stamp of the police where it was filed. Similarly the total correspondence done by the management with the workmen and with the representative of the workmen is based on U.P.C.'s and those also sent on wrong addresses of these workmen. There were no chances of these workmen receiving the dek of the respondent on a address which was never their address. The fate of the police report is also not known. The persons writing the letters to the claimants is for example sales Manager executive of the respondent management who had worked only on verbal instruction form the high ups in the respondent company. He has admitted in his statement that he had nothing to do with the administrative work of the respondent and he was only concerned with sales department.

If we see on the other hand, these workmen have sent their letters under registered covers. I do not understand what stopped the management from sending their letters under registered cover.

Shri R.C. Sharma, representative of the management has drawn my attention to LLJ/1973-Vol. I, Page 279 and 298 para 13 and 32 and LLJ-1964-Vol. I, page 113 in defence of their case. Their Lordships have drawn guide lines for the courts in this rulings but these are not applicable in this case. The management respondent did not hold any domestic enquiry against the present claimants before terminating their services. Mr. Sharma on the aforesaid citation stressed that even if no domestic enquiry has been held or conducted still this court can take cognizance of this case and decide it on merit. I agree with their lordships that in the absence of any enquiry his court certainly can probe into the matters and issues, whether the termination is justified and proper in absence of any enquiry. I have gone through the merits of the evidence of this case myself at length and have come to the

conclusion that the management respondent was bent upon terminating the services of these workmen who were certainly active member of the trade union and had started trade union activities in the respondent company a little before the termination of their services. Needless to mention that the union activities started by these workmen, were not acceptable to the respondent and they were opposed to any trade union activities being started in their factory.

The three witness MW-3, MW-4 and MW-5 who have been produced by the management in this case have supported the stand of the claimant fully instead of that of the respondent management. The factum of the beating other workmen by these workmen claimants i.e. Sarvshri Dharam Bir and Pardesi is also not proved except that there was some wordy altercations and nothing more than that and that too with Shri Dharam Bir workman and not with Shri Pardesi.

The management was called by the Labour Officer, cum-Conciliation Officer, Faridabad to participate in conciliation proceedings. After it had received the demand notice from these workmen. The management, did not at all care to appear before the Conciliation Officer, for the reasons best known to them. From these facts strong inference is drawn against the management for not going in conciliation before Labour-cum-conciliation Officer. It is in itself a proof that the management did not at all want any conciliation with these workmen.

In absence of the domestic enquiry being held, willful absence of the management from the conciliation proceedings and on the merits of the case, as I could go through on the file of this court and evidence adduced by both the parties, and arguments advanced by them, I am of the considered opinion that these workmen have been wrongly and illegally removed by the management respondent from service. The Issue No. 1 has already been decided in favour to these workmen i.e. Sarvshri Dharam Bir and Pardesi who are claimant in these cases and they are confirm employees of the respondent.

I am therefore, of the view that the termination of the services of these workmen Sarvshri Dharm Bir and Pardesi is unjustified, improper and not in order. They should be immediately re-instated by the respondent with full back wages. I give my award accordingly and this may be read in answer to these references.

Note.—A copy of this award be placed on the file of reference No. 59 of 1979 which will be treated as award in that reference also.

Dated the 9th July, 1980.

I. P. CHAUDHRY,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endorsement No. 1195

Dated 22nd July, 1980

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, with the request that receipt of this award may please be acknowledged within week's time.

I. P. CHAUDHRY,

Presiding Officer,
Labour Court, Haryana,
Faridabad.

The 31st July, 1980

No. 12(167)-80-3-Lab.— In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947, (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Gedore Tools (India) Ltd., Unit No. 1, Faridpbad.

BEFORE SHRI NATHU RAM SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 89 of 1977

between

SHRI BACHAN SINGH WORKMAN AND THE MANAGEMENT OF M/S GEDORE TOOLS (INDIA)
PVT. LTD., UNIT NO. 1, FARIDABAD

Present :

Shri K.L. Sharma, for the workman.

Shri S.S. Sethi assisted by Shri S.K. Sehdev for the management.

AWARD

1. By order No. ID/FD/54-B-77/23219, dated 14th June, 1977 the Governor of Haryana referred the following dispute between the management of M/s Gedore Tools (India) Pvt. Ltd. Unit No. 1, Faridabad and its workman Shri Bachan Singh, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of services of Shri Bachan Singh was justified and in order ? If not, to what relief is he entitled ?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 3rd October, 1977 :—

- (1) Whether the workman concerned absented from duty for 8 days consecutively ?
- (2) If issue No. 1 is proved, whether removing of his name from the rolls of the management was warranted according to Standing Orders of the management ?
- (3) If the above two issues are not proved in favour of the management, whether the termination of services of the workman concerned was justified and in order ? If not, to what relief is he entitled ?

And the case was fixed for the evidence of the management. Negotiations for settlement started but failed. The management then applied for amendment of an issue. The representative for the workman prayed for adjournment for filling reply of that application which was granted. But reply was even then not filed and arguments were heard. Issue No. 1 was then recast as follows,—*vide* my order, dated 1st March, 1978 —

Whether the workman had sufficient reasons for his absence from duty with effect from 20th April, 1976 ?

And the case was fixed for the evidence of the workman. The workman obtained five adjournments. The management also obtained adjournments. Lastly the workman examined himself as WW-1. Thereafter the workman wanted to adduce his remaining evidence and therefore, the case was adjourned several times granting adjournments for his remaining evidence. He then examined his wife as WW-2 and prayed for adjournment which was granted. Then the case was fixed for the evidence of the management. The management examined Shri S. K. Sehdev their Personnel Manager as MW-1 and closed their case. Then the case was fixed for hearing of arguments. Arguments were heard. The representative for the workman has also filed written arguments.

3. Although the representative for the workman has closed his case but his statement to the effect that he closed his case had not been recorded on the file, hence it was thought justicably expedient to issue notice for that formal statement for 15th April, 1980. But the representative for the workman appeared on 11th April, 1980. He made statement that he had closed his case on 9th November, 1979 but his statement could not be recorded through omission. He stated that he had not to give any other evidence.

4. I have gone through the evidence of the parties oral as well as documentary. I have also considered their arguments. I have also given a thoughtful consideration to the written arguments of the workman. The main argument of the representative for the workman was that he was helpless and so could not send application. The workman was in custody and was released on 5th July, 1976 and thereafter he fell ill. He sent leave application supported by medical certificate from 5th July, 1976 to 11th July, 1976. On recovery from illness he reported for duty on 12th July, 1976 along with fitness certificate but he was not allowed duty and was told that his services had been terminated. Other arguments of the workman was that the fact of the arrest of the workman was in the knowledge of the management, hence termination was a malafide and with a view to wreck vengeance for not siding with the CPI(M) union which was hand in glove with the management. The representative for the workman also argued that the allegations of the management are wrong and regarding his previous conduct are also not relevant in this case. He further argued that the management had admitted the receipt of a letter from the wife of the workman or grant of leave upto 30th April, 1976. The representative for the workman admitted that the management has brought out their plea of abandonment in the written statement and their letter dated 10th May, 1976. The said representative has stressed on the term "abandonment". He, therefore, argued that the dictionary meaning of the word abandonment should be taken in such circumstance when the word abandonment has not been defined in the Standing Orders. He argued that the word abandonment means full and final for sake utterly, relinquish", renounce, give up. He also cited dictionary of English law by Erl Jewitt "1959 edition" meaning "absolute relinquishment". The emphasis laid was on "actual or imputed intention on the part of the delinquent employee to abandon and relinquish the office. He also argued that such an intention can be inferred from the act and conduct of the party and it is question of fact. His contention was that temporary absence cannot constitute abandonment of office. He cited 1979 ILLJ page 29. He reproduced as to what their lordships have meant by the word "abandonment" in that ruling. He thus argued that on the facts abandonment is not proved. He has led much emphasis on the statement of the workman given on solemn affirmation. Then he has discussed in his written

arguments som: evidence. He argued that irrespective of the fact whether the workman was arrested from the factory or outside the factory, the fact remains that he was arrested during emergency. He, therefore, argued that rules and regulations of detention in police or judicial custody were quite stringent those days, but those rules and regulations have neither been cited nor produced before this Tribunal. The learned representative for the workman prayed for drawing an inference from the fact of emergency period alone that the rules and regulations were quite stringent thosdays. Again he argued that the statement of the workman and his wife whould be believed though oral. Then he has referred to documentary evidence Exhibit W-2 and W-3 judgment of the learned Additional Sessions Judge Gurgaon and the "Kalandra". He also cited 1965 II LLJ page 112 and 1966 I LLJ page 437. He arguedthat removing of the name of the workman on the rolls was malafide. He also cited 1959 II LLJ page 666. These are the arguments of the learned representative for the workman in substance and in nut shell. The representative for the management argued that demand notice was received on 9th December, 1976. It is Ex. M-2. He argued that all the facts and evidence on the file really prove abandonment on the part of the workman and by operation of the clauses of Standing Orders and a legal inference of abandonment could very safely be drawn but can be legally and correctly drawn. The evidence supports the contention of the management regarding abandonment which is proved by evidence. He also argued that the plea of abandonment finds place in their pleadings and is earliest version of the management. The representative for the workman has also argued that the intention of abandonment may be inferred from the Act and conduct of the parties and is a question of fact. He argued that the act and conduct of the party is such that the inference of abandonment only arises from the evidence on the file and it has been proved on the file as a question of fact. The learned representative for the management cited 1963 II LLJ 638 (S.C.), AIR 1968 (S.C.) 33, AIR 1969 Bombay 274, 1973 I LLJ Orissa page 561, 1958 I LLJ page 260, 1975 II LLJ page 73.

5. I would now discuss the law cited by the parties and then discuss the evidehce on the file. I have gone through 1979 I LLJ page 29 which is a ruling of a Division Bench of Hon'ble the Madras High Court. The facts of that are that an employee was suspended pending enquiry and no enquiry took place for one year. The employee claimed wages under section 33-C(2) of the Industrial Disputes Act as he was placed indefinitely under suspension. It was held in that ruling that the employee was entitled to invoke section 33-C(2) and his application was maintainable and the Labour Court could go into the legality of suspension. The facts of this case are dissimilar to the facts of this case. But there is no dispute with the meaning of the word "abandonment". There are various rulings that there must be an intention of abandonment. The representative for the workman had orally argued that there should be willingness to abandon. It is correct that there should be an intention and willingness to abandon. But the facts and circumstances of the case may give rise to inference from the acts and conduct of the employee whether there was intention or willingness to abandonment and whether he has actually abandoned. There is also no dispute with the proposition of law enuntiated and followed in several rulings. It is a question of fact and it depends on evidence whether such an inference in this case can be drawn or not. In 1965 II LLJ page 112 facts were that an employee was detained under prevention detention act and he was a registered dak worker in a reserve pool and the Advisory Board had confirmed detention. After release, the management terminated his services solely on the ground that the Advisory Board had confirmed the detention. Their lordships of the Supreme Court held that the opinion of the Advisory Board was neither judicial, nor quasi judicial and it was not like a judgement of a criminal court. Their Lordships, therefore, held that the management did not give reasonable opportunity to the workman to defend, nor there was any other evidence in support of termination. The employer had terminated the services without leading any evidence. There were also clause 36(3) of the Calcutta Dak Worker (Regulation and Employment Scheme) in support of the workman. I think facts of this case are dissimilar to the facts of the present case. The case cited as 1966 I LLJ page 437 also relates to a State Transport Employee. The order of termination had contravened the provisions of clause 4(b) of the Road Transport Act regulation 61 and this clause 4(b) of the Schedule A to the regulation. Under clause 4(b) it was obligatory on the employer to give reasonable opportunity to show cause. In that case, regulation 38 and 40 provided for acts of mis-conduct and the employer had not issued even a chargesheet. I have also gone through the rulings cited by the learned representative for the management. The law on the question of abandonment is very clear. It is evidence that may decide whether an inference of abandonment may be drawn or not. Facts has to be proved to attract the application of law.

6. WW-1 has stated that he was never charge-sheeted previously and that he had gone to the factory gate on 20th April, 1976 to join his duty but the police arrested him at the gates. News had spread in the factory. He also stated that he was under detention up to 5th July, 1976. None was allowed to meet him as those were the days of emergency. His wife had sent an application for leave. He also produced a letter from the management addressed to his wife Ex. W-1. Then he stated that he was ill from 5th July, 1976 to 11th July, 1976. He went on 12th July, 1976 with medical certificate to join his duties. The management received medical certificate from him but told him that his accounts had been settled. He produced a certified copy of judgement of the Additional Sessions Judge, Gurgaon Ex-W-2 and also of Kalandra Ex. W-3. In cross-examination he could not tell as to what was his basic wage at the time of termination nor he knew about dearness allowance. He could not say whether any warning was administered on him in the years 1971, 1972 and 1974. He also did not remember if 2-3 warnings were administered on him even thereafter. He admitted that he used to be absent during those days. He admitted Ex. M-1 as the true copy of the original letter. He denied that he did not attend the gate of the factory on 12th July, 1976. He stated that he was not taken on duty on 12th July, 1976 but could not tell when he gave such letters, but did not produce any copy of such letters or complaint, non-production whereof goes against him, although he stated that he did not keep its copy. He stated that he gave that letter by hand in the time office at the gate. But he did not summon the dak receipt register from

the management to prove that fact. He also could not tell the name of the person to whom he delivered such letters. He also stated that he did not obtain any receipt from that person. He denied that he had told a lie in this connection. He was covered under the ESI scheme but he did not go to the ESI authorities but went to Delhi and resided at Paharganj. He was living in Jhugli number 111 Railway Colony Faridabad. He did not remember whether he gave demand notice five months after 12th July, 1976. He admitted that Ex. M-2 bore his signatures but he could not say as to who sent it to the management. He also did not remember if he sent or not any other letter than Ex. M-2 and M-3. He admitted that he was absent from 14th April, 1976 to 19th April, 1976 but he had given medical certificate for this period. He also did not remember whether or not he sent any letter for leave to the management. He stated that he tried job in some 3-4 concerns but could not produce any copy of application. WW-2 the wife of the workman stated that her husband was arrested on 20th April, 1976. Those days were the emergency days. She sent application for leave to the management but the management replied that leave was not granted. In cross examination she admitted that she was living in Jhugli in front of Neelam Cinema. She was at her house on 20th April, 1976. She was told by some persons about the arrest of her husband but she could not name him. She denied that she had deposited a lie that her husband was arrested in the factory. She denied that she has been tutored by her husband to depose that. She sent two letters to the management but she could not remember their dates. She sent these letters by dak by going to the post office with some persons. She paid some amount. She did not receive any receipt from the post office. She denied that she had sent only one letter to the management and not any other.

7. MW-1 stated that the workman had overstayed leave, hence his name was struck off as per the certified Standing Orders. He was absent from 14th April, 1976 to 18th April, 1976. Reported on 19th April, 1976 but applied half day leave that very day. He proved the documents of the management. In cross-examination he stated that the workman overstayed leave with effect from 20th April, 1976. He denied that the workman was arrested from the factory and that the wife of the workman had sent two letters to the management. He also denied that the workman reported back to duty on 12th July, 1976 together with a medical certificate. He stated that the workman did not report at all. He did not know about the arrest of the workman but came to know only through letter of his wife.

8. Exhibit W-3 is Kalandra. The accused was arrested under explosive Act in FIR number 151 of 20th April, 1976. In this, the accused is described as belonging to district Bulandsahar. The accused was arrested on 20th April, 1976. Place of arrest is not shown in it. Exhibit W-2 is Certified copy of judgement. The judgement states that the SHO P.S. Central Faridabad has raided but number 112 in occupation of the workman. The workman was present there. The workman had disclosed to the SHO that he had concealed two hand-grenades and two Detonators, wrapped in an handkerchief. He was challaned under sections 4 and 5 of the explosive Substance Act, 1908. The story of the workman that he was arrested from inside the factory is belied from this judgement. The workman was committed to the Sessions Court under the said sections of the said Act. Recovery was also alleged to have been made from the hut of the workman in that case, although the workman has been acquitted in that case, as all material witnesses were not produced before the learned Sessions Judge and some witnesses had been found to be stock witnesses. The learned Sessions Judge did not find corroboration of recovery in that criminal case. The defence counsel had argued that the recovered articles were not placed in a sealed parcel by the Sub-inspector at the spot to rule out the possibility of change of the articles recovered. The learned Sessions Judge has mentioned in the said judgement that in that case the accused was in possession of a small hut but search was not attempted. The whole judgement does nowhere show that the accused was arrested from the factory, although the workman was acquitted on consideration of several grounds and law. Exhibit W-1 is a copy of letter from the management to the wife of the workman, by which the management has informed her that leave could not be granted to the workman. This letter is dated 24th April, 1976. Exhibit M-2 is demand notice. It is dated 9th December, 1976. Exhibit M-3 is an empty cover alleged to contain that letter. Exhibit W-2 is also a copy of the said letter dated 24th April, 1976. Exhibit M-12 is warning to the workman issued on 11th November, 1971. Exhibit M-13 is again warning for absence dated 26th April, 1972. Exhibit M-12 shows that the workman was relaxing in the toilet in duty hours which he had stated in explanation of absence. Exhibit M-14 is also warning letter regarding absence dated 4th February, 1974. Exhibit M-15 is dated 17th November, 1975. The workman left his place of duty. Exhibit M-1 is copy of letter of workman explaining the reasons of his absence being sickness. Exhibit M-5 is leave application form dated 19th April, 1976 prayed for half day leave on the ground that the workman was not feeling well. He was granted half day leave on 19th April, 1976,—*vide* Exhibit M-6. Exhibit M-7 and M-8 are the copies of letters of the management and of the wife of the workman as mentioned above. Exhibit M-9 is the letter of the management by which the workman was informed that by remaining absent he has voluntarily abandoned his job and he could collect his dues. Exhibit M-10 is abstract from attendance register, in which the workman is marked absent right from 20th April, to 8th May, 9th May being Sunday. The workman is marked absent from 14th April, 1976 to 17th April, 1976 also, 18th April being Sunday. He is marked present in the first period and leave in the 2nd period on 19th April, 1976. This is the whole of evidence before me. The workman has not proved that he was sick after acquittal. He was acquitted on 24th March, 1978. There is no evidence on the file that he attended the factory gates on release from detention. The workman himself has stated that he went to the factory gate on 12th July, 1976. I fail to understand as to why the workman did not attend the factory gates right from 5th July, 1976 to 12th July, 1976. The demand notice is dated 13th December, 1976. No medical certificate or its copy has been produced before this Tribunal, nor ailing condition of the workman, after his detention ended, has been proved. The workman has stated that he was under detention up to 5th July, 1976. The period from 5th July, 1976 to 13th December, 1976 the date of demand notice remains uncovered and unexplained. The workman proved nil on issue No. 1. I therefore, decide issue No. 1 against the workman.

Issue No. 2.—The Standing Orders warranted the removal of name of the workman from the rolls of the management as the workman has remained absent for 19th days continuously. Clause 8(c) of the Standing Orders contained such a provision. I, therefore, decide issue No. 2 in favour of the management.

Issue No. 3.—The management did not terminate the services of the workman, rather the workman left his employment by remaining absent and by overstaying leave as per provisions of the said Standing Orders. The workman is not entitled to any relief.

9. While answering the reference, I give my award that the management did not terminate the services of the workman and it is the workman who left his employment as per the Certified Standing Orders of the management. The workman is not entitled to any relief.

Dated the 16th April, 1980.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 368, dated the 18th April, 1980

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 1st August, 1980

No 12(46)-80-3 Lab.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s. Karnal Co-operative Transport Society Ltd., Karnal.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No 54/67

between

THE WORKMEN AND THE MANAGEMENT OF M/S. KARNAL CO-OPERATIVE
TRANSPORT SOCIETY LTD., KARNAL

Present.—

Shri Madhu Sudhan Sharma Coshish, for the workmen.
Shri M.L. Saini, for the management.

AWARD

The facts relevant for the disposal of this reference may briefly be stated as under :—

The management of M/s. Karnal Co-operative Society Ltd., Karnal dismissed from service three of its workmen, namely, S/Shri Pritam Singh, Sobe Raj and Gurmuikh Singh. Two other workmen, S/Shri Satnam Singh and Santosh Kumar were brought under retrenchment. Feeling aggrieved the abovenamed workmen raised demands for the reinstatement and back wages but without any satisfactory response from the management. This gave rise to a Industrial dispute which on the joint request of the parties, were referred for adjudication to this Tribunal by the Governor of Haryana, in exercise of the powers conferred by sub-section (2) of section 10 of the Industrial Disputes Act, 1947,—*vide* order No. 220-SF-111-Lab-67/17847, dated 24th June, 1967, the term of reference being as given under :—

(1) Whether the dismissal of the following workers is justified and in order ? If not, what amount and exact compensation/relief they are entitled to ?

- (1) Shri Pritam Singh,
- (2) Shri Sobe Raj, and
- (3) Shri Gurmuikh Singh.

(2) Whether the retrenchment/termination of the following workmen is justified and in order ? If not, what amount of compensation/relief they are entitled to:—

(1) Shri Satnam Singh,

(2) Santosh Kumar.

On receipt of the order of reference usual notices were given to the parties and they put in their respective written statements. The workmen challenged the validity of the orders of their dismissal and retrenchment on various grounds and restored their claim for reinstatement with continuity of previous services and payment of back wages. The management, on the other hand, contended that Sarvshri Pritam Singh, Sobh Raj and Gurmukh Singh had been dismissed from their services on the charges of misconduct which had been duly established in the domestic enquiries conducted against them while Sarvshri Satnam Singh and Santosh Kumar had to be brought under retrenchment because the posts held by them had been surplus.

From the pleadings of the parties the only issues which arose for determination were as far the terms of reference stated above. The parties led oral as well as documentary evidence. The management examined three witnesses including S/Shri Krishan Kumar Bhargwa stenotypist Labour Officer, Karnal, Amarjit Singh, Manager of the respondent Transport society and M. L. Saini, Enquiry Officer. The workmen examined witnesses including S/Shri Harbhajan Singh, Ex-workshop incharge, Rattan Singh Bedi, Senior Vice-President, Gurcharan Singh of the respondent Transport Society, Radha Krishan Clerk of Regional Transport Society, Ambala Cantt, Baij Nath, G.M. Karnala Delhi Co-operative Transport Society Pushpinder Nath Clerk of the office of the Assistant Registrar, Co-operative, Karnal, Gurcharan Singh, Sarparast and Bawa Singh Vice President, Madan Lal, Secretary, District Motor Transport Workers Union besides making their own statements. The parties also relied upon some documents.

After considering the evidence produced on both sides and the arguments advanced by the representative of the parties, My learned predecessor, Shri K.L. Gosain, arrived the conclusion that the dismissal and the retrenchment of the workmen concerned could not be maintained and they were entitled to reinstatement with continuity of their services and half of their usual wages. The award was accordingly made on February 24, 1968.

Fooling agreed by the above award, the management reserved CW 11 Writ Petition No. 1787 of 1968. Sarvshri Pritam Singh, Sobh Raj and Gurmukh Singh being entered into an suitable settlement with the management, the matter regarding their dismissal was aggravated. On behalf of the remaining two workmen Sarvshri Satnam Singh and Santosh Kumar. It was urged that the retrenchment had not been properly constituted. This plea being however not been special recalling named to the statement of both and the management being not been say on solemn affirmation opportunity to meet the same, Hon'ble the High Court has been pleased to set aside the award and remind the case for fresh decision,—*vide* order dated 16th 1970.

After the remand of the case, Shri Santosh Kumar has not come forward to press his claim. His statement of claim has notified by him or by his representative in the light of the remand order. He has not even come into the witness-box to make a statement on oath to support his demand for reinstatement, back wages etc.

Shri Satnam Singh in the amended statement of claim filed on 24th February, 1971 has contended that according to the Bye-Laws of the respondent Transport Society it was only the Managing Committee which was competent to terminate the services of a workmen by retrenchment or otherwise and no other person or authority was competent to take any such action. He has further contended that the impugned order of his retrenchment was made by Shri Amarjit Singh, Manager who was not his appointing or dismissing authority and as such the order was illegal. In the written statement filed on behalf of the management on 16th March, 1971 the allegations of Shri Satnam Singh have been controverted and it has been averred that the Executive Committee/Managing Committee has passed the resolution No. 4 on 15th March, 1967 to abolish the post of Radiator Repairer held by Shri Satnam Singh and he had, therefore, to be brought under retrenchment. It was further urged that Shri Amarjit Singh, manager had only issued the order of the termination of the services of Shri Satnam Singh in compliance with the above resolution of the Executive Committee which had been validly constituted and as such it could not be considered as an order passed independently by Shri Amarjit Singh.

The following issue was framed :—

Whether the Executive Committee which passed the order of the retrenchment/termination of the services of the concerned workmen was validly constituted ? If not, with what effect?

The management has examined its President Shri Rattan Singh Bedi and place reliance upon some documents including copy of resolutions No. 13, 14 15, dated 6th January, 1967, Exhibit MW (R) 1/1, copy of resolution No. 11, dated 7th January, 1967, Exhibit M.W. (R) 1/2 copy of resolution 4 dated 15th February, 1967, Exhibit MW (R) 1/3 resolution No. 16, dated 15th February, 1967 Exhibit MW (R) 1/4 Bye-Laws of Society, Exhibit MW(R) 1/5. On the other hand, Shri Satnam Singh had made his own statement besides examining Shri Madan Lal, General Secretary, District Motor Transport Workers Union, Regd., Karnal who has proved the statement of claim originally filed on 10th July, 1967, Exhibit WW (R) 1/1 and the letter of authority, Exhibit WW (R) 1/2.

Arguments have been advanced on both sides and I have been taking through the entire evidence on record. The main contention raised on behalf of Shri Satnam Singh is that Shri Amarjit Singh, who had issued the order of the termination of his service by way of retrenchment was not competent to do so. The constitution of the Executive Committee which had passed the resolution to abolish the post of Rediator Repairer held by him has not been challenged in clear and specific terms even in the amended statement of claim filed in the light of the demand order of the Hon'ble High Court. His statement recorded after the remand of the case is also silent on this point. The management on the other hand, has proved from the statement of its President Shri Rattan Singh Bedi read with the copies of the various resolution brought on the record that the Executive Committee which had decided to abolish the post of the Rediator Repairer had been validly constituted. It has not been shown as to how the Managing Committee of the respondent Transport Society was not competent to constitute the Executive Committee for the purpose and further now that Executive Committee was not competent to take a decision to abolish the post which was considered surplus from the persual of the documentary evidence referred to above it would be clear that Shri Amarjit Singh Manager had not taken the decision to terminate the services by the Managing-cum-Executive Committee to issue this order in compliance with the aforesaid resolution and that being so I do not find anything wrong with the order. There is nothing in the Bye Laws of the Committed which would validate the above action taken by Shri Amarjit Singh, Manager in strict compliance of the decision of the Managing-cum-Executive Committee. Shri Satnam Singh has produced no reasonable rebuttal of the oral as well as the documentary evidence led by the management to justify the order of his retrenchment. The other workman Shri Santosh Kumar has not come forward to press the claim as already observed. According to the case of the management he was holding only a part-time job of a peon which had been rendered surplus owing to the decrease in the Transport business and as such he had to be brought under retrenchment.

The post in question having been considered to be surplus. The management was not bound to retain the concerned workmen in service especially in the absence of any proof that alternative posts were available for them. The law is very clear on the point. In the case of a bona fide retrenchment the Tribunal has not to go into the question of the propriety of the action of the retrenchment taken by the employer. There is further no indication that the posts have since been revised. On the other hand, the learned representative of the management has urged that as a result of the nationalisation of the Road Transport by the State Government the strength of the workmen has gradually been reduced to 1/4th and quite a large number of them have been brought under retrenchment. The learned representative of the workmen has not stated any thing worth consideration to refute the above contention.

So, taking into consideration all the facts and the circumstances of the case discussed above I am quite clear in my mind that the concerned workmen have simply failed to challenge the validity of the impugned action of retrenchment taken against them by the management and that being so the issues involved are decided against them and it is held that they are not entitled to any relief regarding reinstatement or payment of back wages. The award is accordingly made but with no order as to costs.

Dated the 27th June, 1972.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 695, dated 27th June, 1972.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

Dated the 27th June, 1972.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 7th August, 1980

No. 11 (112)-80-3Lab/9476.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Top Style Apparels Private Ltd., Sector 6, Faridabad.

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 382 to 388 of 1978

Between

SARVSHRI MOHAMAD SHAMUL, SURESH, MOHMAD AJIJ, P.T. JOHN, MADAN IAL, K.I SUJA AND VED RAM, WORKMEN AND THE MANAGEMENT OF M/S. TOP STYLE APPARELS PVT., LTD., SECTOR 6, FARIDABAD

AWARD

1. By order No. ID/FD/77-78/39687, dated 29th August, 1978, Governor of Haryana referred the following dispute :—

Whether the termination of services of Shri Mohamad Shamul was justified and in order ? If not, to what relief is he entitled ?

By order No. ID/FD/78-78/39679, dated 29th August, 1978, the Governor of Haryana referred the following dispute :—

Whether the termination of services of Shri Suresh was justified and in order ? If not, to what relief is he entitled ?

By order No. ID/FD/71-78/39673, dated 29th August, 1978, the Governor of Haryana referred the following dispute :—

Whether the termination of services of Shri Mohamad Ajij was justified and in order ? If not, to what relief is he entitled ?

By order No. ID/FD/75-78/39666, dated 29th August, 1978, the Governor of Haryana referred the following dispute :—

Whether the termination of services of Shri P.T. John was justified and in order ? If not, to what relief is he entitled ?

By order No. ID/FD/74-78/39660, dated 29th August, 1978, the Governor of Haryana referred the following dispute :—

Whether the termination of services of Shri Madan Lal was justified and in order ? If not, to what relief is he entitled ?

By order No. ID/FD/78-78/39644, dated 29th August, 1978, the Governor of Haryana referred the following dispute :—

Whether the termination of services of Shri K.P. Suja was justified and in order ? If not, to what relief is he entitled ?

By order No. ID/FD/72-78/39652, dated 29th August, 1978, the Governor of Haryana referred the following dispute :—

Whether the termination of services of Shri Ved Ram was justified and in order ? If not, to what relief is he entitled ?

between the management of M/s Top Style Apparels Pvt. Ltd., Sector 6, Faridabad and its workmen Sarvshri Mohamad Shamul, Suresh, Mohamad Ajij, P.T. John, Madan Lal, K.P. Suja and Ved Ram to this Tribunal for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, issues were framed on 11th January, 1979 and all these references were consolidated on the request of the parties, there being common question of law and facts. It was ordered that evidence shall be recorded in reference number 382 and shall be read as evidence in references number 383 to 388 of 1978. The management appeared 3-4 times and made an application intimating that under orders of the Delhi High Court liquidation proceedings in respect of M/s Top Style Apparels Pvt. Ltd., Sector 6, Faridabad, had been initiated and official liquidator had been appointed as Administrator of the company. After that none appeared on their behalf. *Ex-parte* proceedings were ordered against them on 8th February, 1980. Then the workmen were asked to produce their evidence. Many opportunities were given to the workmen for adducing evidence but on the last date of hearing their representative stated that he had no instructions from the workmen. Therefore, case of the workmen was closed. In these circumstances, I give my award that the workmen are not interested in pursuing their cases and there is no dispute left for adjudication between the parties.

M.C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated the 30th July, 1980.

No. 700, dated 31st July, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M.C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.